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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/080,105	02/21/2002	Steven C. Gevaert	335.084	1691

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EXAMINER

D ADAMO, STEPHEN D

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 03/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/080,105

Applicant(s)

GEVAERT, STEVEN C.

Examiner

Stephen D'Adamo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,5-11,15-17,19 and 20 is/are rejected.
- 7) ☒ Claim(s) 2-4,12-14 and 18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4 and 5. 6) ☐ Other:

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 4, 6, 7, 9, 10, 12, 13, 15, 16, and 18-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 13 recites “a majority of the length of the pivot bar” lacks definiteness.

Claims 1, 4, 6, 7, 9, 10, 12, 13, 15, 16, and 18-20 have insufficient antecedent basis for the limitations below:

- “the limit” lacks antecedent basis in claim 1.
- “the dimension” lacks antecedent basis in claim 4.
- “the upper area” lacks antecedent basis in claim 6
- “the pivot member lower section” lacks antecedent basis in claim 6.
- “the lower portion” of the pivot member lacks antecedent basis in claim 6.
- “the pivot member upper section” lacks antecedent basis in claim 7.
- “the upper portion” of the pivot member lacks antecedent basis in claim 7.
- “the forwardly facing wall” of the seat pocket lacks antecedent basis in claim 7.
- “the upper extent” and “the lower extent” lack antecedent basis in claim 9.
- “the upper portion of the pivot bar lower section” lacks antecedent basis in claim 10.
- “the forwardly facing wall of the seat pocket” lacks antecedent basis in claim 10.
- “the lower portion of the pivot bar upper section” lacks antecedent basis in claim 10.

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- “the forwardly facing wall of the back pocket” lacks antecedent basis in claim 10.
- “the second pivot position” lacks antecedent basis in claim 10.
- “the predetermined limit” of pivoting movement if the back lacks antecedent basis in claim 12.
- “the length of the pivot bar” lacks antecedent basis in claim 13.
- “the range of pivoting movement” lacks antecedent basis in claims 15 and 16.
- “the pivot strap” lacks antecedent basis in claim 18.
- “the seat passage” and “the back passage” lack antecedent basis in claim 19.
- “the pivot angle” lacks antecedent basis in claim 20.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 5-11, 15-16, and 19-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Tolleson (5,039,163).

Figures 1-3 of Tolleson disclose a unitary seat with pockets 14 and a backrest with pockets 12. The flat or blade spring 56 has a lower section engaged with the unitary seat and an upper section engaged with the backrest. Tolleson states, “to limit the bending of the upper backrest portion 12 relative to the lower backrest portion 14, the distal ends of each leg member 58 and 60 are formed with outwardly extending flanges 68 and 70” (col.4, lines 51-55). Figure 1 shows a space between the seat and backrest and the spring

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56 includes an intermediate member located between the seat pocket and backrest pocket (defined as the space between gaps 70 and 68). "a slight gap 71 is provided between the two flanges 68 as well as a slight gap 72 between the two flanges 70" (col.5, lines 20-22). Figure 2 shows the lower portion of the lower section of the spring fixed with fasteners 66 while the upper portion of the lower section of the spring is spaced from a forward facing surface. Initial rearward movement results in the engagement, prior to the engagement of the rearward facing wall, "the upper backrest portion 12 rotates through the larger gap 72 until it engages against the flange 70" (col.5, lines 29-31). Figure 2 also shows the lower portion of the upper section of the spring spaced forward of the rear surface of the backrest pocket. As the backrest continues to rotate along line "A" in Figure 3, the backrest attains a second and final position while the spring engages with the rearward facing wall. The resistance to further bending beyond the final position is provided by the gap 72, as stated, "Further maximum use of limited space available for the flexing or angular movement of the spring is permitted" (col.5, lines 47-49).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tolleson (5,039,163) in view of Ballarini (4,585,272).

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Tolleson teaches of a limit member for restricting angular movement of a backrest however, the limit member does not consist of a limit strap. Ballarini does teach of a limiting member in the form of a limit strap. Ballarini discloses, "a first resilient return member, generally indicated 30, is connected to the backrest 16 and comprises a flexible blade element 32 extending transverse the articulated segments 18, 20, 22" col.4, lines 52-55). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the flexible backrest assembly of Tolleson with another limiting member including of a limit strap, as taught by Ballarini, for additional resistance to angular movement of the backrest.

#### ***Claim Objections***

4. Claims 2-4, 12-14, and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Barile (6,406,096), Raftery (5,988,746), Ambasz (5,108,149), Schafer (4,830,430), Verney (4,580,836), Wassermann et al. (EP 552,388), and Tolleson (WO 9,103,192) all show various features of the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen D'Adamo whose telephone number is 703-305-8173. The examiner can normally be reached on Monday-Thursday 7:00-4:30, 2nd Friday 7:00-3:30.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pete Cuomo can be reached on 703-308-0827. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1018.

SD

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February 27, 2003

  
Peter M. Cuomo  
Supervisory Patent Examiner  
Technology Center 3600